

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS Patricia A. Miraglia and Anthony Miraglia (H/W) (b) County of Residence of First Listed Plaintiff <u>Cape May</u> <u>New Jersey</u> (EXCEPT IN U.S. PLAINTIFF CASES)			DEFENDANTS W.E. Bassett Company, Inc., Vibrations Sales and Promotions, Et. Cetera Marketing of NY, Inc. County of Resident of First Listed <u>Fairfield, Connecticut</u> (IN U.S. PLAINTIFF CASES ONLY) NOTE: INLAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.																		
(c) Attorney's (Firm Name, Address and Telephone Number) Keven B. Steinberg, Esquire Edelstein, Brascetta & Steinberg, LLP. 230 South Broad Street Suite 900 Philadelphia, Pennsylvania 19102 (215) 893-9311			Attorneys (If Known) Jonathan Dryer, Esquire Wilson, Elser, Moskowitz, Edelman & Dicker LLP The Curtis Center, Suite 1130 East, Independence Square West Philadelphia, Pennsylvania 19106 (215) 627-6900																		
II. BASIS OF JURISDICTION (Place an "X" in One Box Only) <input type="checkbox"/> 1. U.S. Government Plaintiff <input type="checkbox"/> 3. Federal Question (U.S. Government Not a Party) <input type="checkbox"/> 2. U.S. Government Defendant <input checked="" type="checkbox"/> 4. Diversity (Indicate Citizenship of Parties in Item III)			III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for (For Diversity Cases Only) and One Box for Defendant) <table style="width: 100%; border: none;"> <tr> <th style="text-align: left; border: none;">PL</th> <th style="text-align: left; border: none;">DEF</th> <th style="text-align: left; border: none;">PL</th> <th style="text-align: left; border: none;">DEF</th> </tr> <tr> <td style="border: none;">Citizen of this State <input type="checkbox"/> 1</td> <td style="border: none;"><input type="checkbox"/> 1</td> <td style="border: none;">Incorporates or Principal Place Of Business in this State <input type="checkbox"/> 4</td> <td style="border: none;"><input type="checkbox"/> 4</td> </tr> <tr> <td style="border: none;">Citizen of Another State <input checked="" type="checkbox"/> 2</td> <td style="border: none;"><input type="checkbox"/> 2</td> <td style="border: none;">Incorporates and Principal Place Of Business in Another State <input type="checkbox"/> 5</td> <td style="border: none;"><input checked="" type="checkbox"/> 5</td> </tr> <tr> <td style="border: none;">Citizen or Subject of a Foreign Country <input type="checkbox"/> 3</td> <td style="border: none;"><input type="checkbox"/> 3</td> <td style="border: none;">Foreign Nation <input type="checkbox"/> 6</td> <td style="border: none;"><input type="checkbox"/> 6</td> </tr> </table>			PL	DEF	PL	DEF	Citizen of this State <input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporates or Principal Place Of Business in this State <input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State <input checked="" type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporates and Principal Place Of Business in Another State <input type="checkbox"/> 5	<input checked="" type="checkbox"/> 5	Citizen or Subject of a Foreign Country <input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation <input type="checkbox"/> 6	<input type="checkbox"/> 6
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IV. NATURE OF SUIT (Place an "X" in One Box Only)																					
CONTRACT <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability		TORTS PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liab. <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury-Med. Malpractice <input type="checkbox"/> 365 Personal Injury-Prod. Liab. PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability		FORFEITURE/PENALTY <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other																	
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property		CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act																	
PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609		OTHER STATUTES <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions																			

(PLACE AN "X" IN ONE BOX ONLY)			
V. ORIGIN			
<input type="checkbox"/> 1 Original Proceeding	<input checked="" type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened
Transferred from <input type="checkbox"/> 5 another district (specify)		<input type="checkbox"/> 6 Multidistrict Litigation	Appeal to District <input type="checkbox"/> 7 Judge from Magistrate Judgment
VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write brief statement of cause. Do not cite jurisdictional statutes unless diversity) Diversity, 28 U.S.C. § 1332 (a)(1), and ERISA 29 U.S.C. §§1001, et seq.			
VII. REQUESTED IN COMPLAINT:		<input type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23	<input type="checkbox"/> DEMAND \$ >\$100,000 JURY DEMAND: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
VIII. RELATED CASE(S) IF ANY (See instructions): JUDGE: _____ DOCKET NUMBER _____			
DATE 5-23-06		SIGNATURE OF ATTORNEY OF RECORD s/JMD 234/	
FOR OFFICE USE ONLY			
RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____			

UNITED STATES DISTRICT COURT

APPENDIX F

FOR THE EASTERN DISTRICT OF PENNSYLVANIA – DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 107 E. Jefferson Avenue, Wildwood Crest, New Jersey 08260

Address of Defendant: 100 Trap Falls Road Extension, Shelton, Connecticut 06484

Place of Accident, Incident or Transaction: Unclear from the Complaint

(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?

(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a))

Does this case involve multidistrict litigation possibilities?

☐ Yes ☒ No

RELATED CASE, IF ANY:

Case Number _____ Judge _____ Date Terminated _____

Civil cases are deemed related when yes is answered to any of the following questions:

1. If this case related to property included in an earlier numbered suit ending or within one year previously terminated action in this court? ☐ Yes ☒ No
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court? ☐ Yes ☒ No
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court? ☐ Yes ☒ No

CIVIL (Place ☒ in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. ☐ Indemnity Contract, Marine Contract and All Other Contracts
2. ☐ FEELA
3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. ☐ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☐ All other Federal Question Cases
(Please specify)

B. Diversity Jurisdiction Cases:

1. ☐ Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☐ Marine Personal Injury
5. ☐ Motor Vehicle Personal Injury
6. ☒ Other Personal Injury (Please specify)
7. ☒ Products Liability
8. ☐ Products Liability – Asbestos
9. ☐ All other Diversity Cases
(Please specify)

**Plaintiff alleges product liability
resulting in personal injury**

ARBITRATION CERTIFICATION

(Check appropriate Category)

I, Jonathan Dryer, Esquire, counsel of record do hereby certify:

☐ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;

☐ Relief other than monetary damages is sought.

DATE: May 23, 2005

Jonathan Dryer, Esquire
Attorney-at-Law

34496

Attorney ID #

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: May 23, 2005

Jonathan Dryer, Esquire
Attorney-at-Law

34496

Attorney ID #

CIV. 609 (4/03)

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CASE MANAGEMENT TRACK DESIGNATION FORM

PATRICIA MIRAGLIA, et al.	:	CIVIL ACTION
	:	
Plaintiffs	:	
	:	
v.	:	JURY TRIAL DEMANDED
	:	
W.E. BASSETT COMPANY, INC., et al.	:	
	:	
Defendants	:	

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See §1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff's regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a case management track designation form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. §2241 through §2255 ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2 ()
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks (X)

May 23, 2006
Date

Jonathan Dryer, Esquire
Attorney-at-law

W.E. Bassett Company, Inc.
Attorney for

215.627.6900
Telephone

215.627.2665
Fax Number

dryerj@wemed.com
E-Mail Address

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

PATRICIA A. MIRAGLIA	AND	:	CIVIL ACTION
ANTHONY MIRAGLIA, H/W/		:	(On Removal from the Philadelphia,
107 E. JEFFERSON AVENUE		:	Pennsylvania Court of Common
WILDWOOD CREST, NJ 08260,		:	
	PLAINTIFFS	:	No.: 05-
		:	
v.		:	
		:	
W.E. BASSETT COMPANY, INC.		:	
100 TRAP FALLS ROAD EXTENSION		:	
SHELTON CT, 06484,		:	
	AND	:	
VIBRATIONS SALES AND PROMOTIONS		:	
770 LEXINGTON AVENUE		:	
NEW YORK, NY 10021,		:	
	AND	:	
ET. CETERA MARKETING OF NY,		:	
INC.		:	
770 LEXINGTON AVENUE FRONT		:	
NEW YORK, NY 10021,		:	
		:	
	DEFENDANTS	:	

NOTICE OF REMOVAL

PLEASE TAKE NOTICE that defendant W.E. Bassett Company, Inc. ("Removing Party") hereby removes this action to the United States District Court for the Eastern District of Pennsylvania on the following grounds:

1. Plaintiffs commenced this action by filing a complaint in the Court of Common Pleas of Philadelphia County, Pennsylvania on or about April 11, 2005. A true and copy of the complaint is attached hereto as Exhibit "A."

2. Pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, the Removing Party requests removal of this action to the United States District Court for the Eastern District of Pennsylvania, which is the judicial district in which the action is pending.

3. The Removing Party accepted service of the complaint on or about April 26, 2006. See, letter dated April 24, 2006 accepting service, a true and correct copy of which is attached hereto as Exhibit "B."

4. This notice is therefore timely filed within the thirty (30) day period allowed by 28 U.S.C. § 1446(b).

5. This suit involves a controversy between citizens of different states.

6. Based upon information and belief, plaintiffs are citizens of New Jersey.

7. The Removing Party is a citizen of Connecticut as it is incorporated under the laws of the State of Connecticut and its principal place of business is 100 Trap Falls Road Extension, Shelton, Connecticut.

8. Based upon information and belief, defendant Vibration Sales and Promotions is a citizen of New York, is incorporated under the law of the State of New York, and has its principal place of business at 770 Lexington Avenue, New York, New York.

9. Based on information and belief, defendant Et. Cetera Marking of NY, Inc. is a citizen of New York, is incorporated under the law of the State of New York, and has its principal place of business at 770 Lexington Avenue, New York, New York.

10. As evidenced by Exhibit "C" hereto, codefendants Vibration Sales and Promotions and Et. Cetera Marking of NY, Inc. retained counsel, who has been advised of, and consents to, the removal of this case to this court.

11. The plaintiffs seek to recover damages in excess of \$50,000, plus costs and interests. See, Exhibit "A."

12. Furthermore, while the Removing Party does not believe plaintiffs are entitled to any award in any amount, the Removing Party believes and therefore avers, that the amount in controversy exceeds \$75,000, exclusive of interest and costs.

13. This is an action over which this court could have had original jurisdiction under 28 U.S.C. §1332(a)(1), and which may be removed to this court by the Removing Party pursuant to the provisions of 28 U.S.C. §1441(b) in that it is a civil action between citizens of one state and those of different states, and the matter in controversy exceeds the sum of \$75,000, exclusive of interest and costs.

14. The Removing Party has simultaneously with the filing of this notice given written notice to counsel for plaintiffs and codefendants.

15. The Removing Party is also filing a copy of this Notice of Removal and all attachments with the Prothonotary of the Court of Common Pleas of Philadelphia County, Pennsylvania.

WHEREFORE, defendant W.E. Bassett Company, Inc. respectfully requests that this matter proceed in the United States District Court for the Eastern District of Pennsylvania as though originally commenced herein.

Respectfully submitted,

WILSON, ELSER, MOSKOWITZ,
EDELMAN & DICKER LLP

By: s/JMD 234/

Jonathan Dryer, Esquire
Damien Zillas, Esquire
Pa. Atty. I.D. Nos. 34496/201552
Attorneys for Defendant
W.E. Bassett Company, Inc.
The Curtis Center • Suite 1130 East
Independence Square West
Philadelphia, PA 19106
(215) 627-6900

CERTIFICATE OF SERVICE

Jonathon Dryer, Esquire states that he is a partner with the law firm of Wilson, Elser, Moskowitz, Edelman & Dicker LLP, attorneys for defendant W.E. Bassett Company, Inc.; and that he did serve the foregoing Notice of Removal to Plaintiffs and Codefendants by depositing a copy of the same in the United States Post Office Box, enclosed in an envelope with postage prepaid fully, addressed as follows:

Robert J. Donaghy, Esquire
Stocking Works Building
301 South State Street
Newtown, Pennsylvania 18940
Attorney for Plaintiff

Mark F. Digiovanni
Law Offices of Francis R. Gartner & Associates
100 West Elm Street, Suite 200
Conshohocken, Pennsylvania 19422
Attorney for Codefendants

Respectfully submitted,

WILSON, ELSER, MOSKOWITZ,
EDELMAN & DICKER LLP

By: s/JMD 234/

Jonathan Dryer, Esquire
Damien Zillas, Esquire
Pa. Atty. I.D. Nos. 34496/201552
Attorneys for Defendant
W.E. Bassett Company, Inc.
The Curtis Center • Suite 1130 East
Independence Square West
Philadelphia, PA 19106
(215) 627-6900

WILSON, ELSE, MOSKOWITZ, EDELMAN & DICKER LLP

By: Jonathan Dryer, Esquire

Damien Zillas, Esquire

Identification Nos. 34496/201552

The Curtis Center • Suite 1130 East

Independence Square West

Philadelphia, PA 19106

(215) 627-6900

Attorney for Defendants

W.E. Bassett Company, Inc

PATRICIA MIRAGLIA, et al.	:	COURT OF COMMON PLEAS
Plaintiffs	:	PHILADELPHIA COUNTY
	:	
v.	:	APRIL TERM, 2006
	:	
	:	NO. 01290
W.E. BASSETT COMPANY, INC., et al.	:	
Defendants	:	

NOTICE OF REMOVAL TO FEDERAL COURT

TO THE PROTHONOTARY:

PLEASE TAKE NOTICE that defendant W.E. Bassett Company, Inc., by its attorneys, Wilson, Elser, Moskowitz, Edelman & Dicker LLP, has filed a Notice of Removal in the United States District Court for the Eastern District of Pennsylvania.

A copy of said Notice of Removal is attached to this Notice, and served herewith. Please take all necessary actions to transfer the file to the Clerk of the United States Court for the Eastern District of Pennsylvania.

Respectfully Submitted,
WILSON, ELSE, MOSKOWITZ,
EDELMAN & DICKER LLP

By: 

Jonathan Dryer, Esquire

Damien Zillas, Esquire

Attorney for Defendants

W.E. Bassett Company, Inc.

EXHIBIT “A”

File #: 125-024

MAJOR JURY

EDELSTEIN, BRASCETTA & STEINBERG, LLP

KEVIN B. STEINBERG, ESQUIRE

Identification No.: 66584

230 South Broad Street, Suite 900

Philadelphia, PA. 19102

(215) 893-9311

Attorney for Plaintiffs

PATRICIA A. MIRAGLIA AND :

ANTHONY MIRAGLIA, H/W/ :

107 E. JEFFERSON AVENUE :

WILDWOOD CREST, NJ 08260, :

PLAINTIFFS :

COURT OF COMMON PLEAS
PHILADELPHIA COUNTY

V. :

TERM, 2006

W.E. BASSETT COMPANY, INC. :

NO.:

100 TRAP FALLS ROAD EXTENSION :

SHELTON, CT, 06484, :

AND :

VIBRATIONS SALES AND PROMOTIONS :

770 LEXINGTON AVENUE :

NEW YORK, NY 10021, :

AND :

ET. CETERA MARKETING OF NY, INC. :

770 LEXINGTON AVENUE FRONT :

NEW YORK, NY 10021, :

DEFENDANTS :

COMPLAINT IN CIVIL ACTION-PERSONAL INJURY
2110-PRODUCTS LIABILITY

1. Plaintiffs, herein, Patricia A. Miraglia, and Anthony Miraglia, are husband and wife and adult individuals, residing at 107 E. Jefferson Avenue, Wildwood Crest, NJ 08260.

2. The Defendant herein, The W. E. Bassett Company, Inc. (hereinafter referred to as "The Bassett Company") is a corporation or other business entity duly organized and existing under and by virtue of the laws of the State of Connecticut, with a principal address of 100 Trap Falls Road Extension, Shelton, CT 06484.

3. The Defendant herein, Vibrations Sales and Promotions (hereinafter referred to as "Vibrations") is, upon information and belief and after reasonable investigation, a corporation or other business entity duly organized and existing under and by virtue of the laws of the State of New York, with a principal address of 770 Lexington Avenue, New York, NY 10021.

4. The Defendant herein, Et. Cetera Marketing of NY, Inc. (hereinafter referred to as "Et. Cetera") is, upon information and belief and after reasonable investigation, a corporation or

other business entity duly organized and existing under and by virtue of the laws of the State of New York, with a principal address of 770 Lexington Avenue, New York, NY 10021.

5. At all times material hereto, the Defendant, The Bassett Company, regularly conducts business, and sells and/or distributes its products, including the product involved in the instant action, in the Commonwealth of Pennsylvania, in general, and the County of Philadelphia, in particular.

6. At all times material hereto, the Defendant, Vibrations, regularly conducted business, and sold and/or distributed its products, including the product involved in the instant action, in the Commonwealth of Pennsylvania, in general, and the County of Philadelphia, in particular.

7. At all times material hereto, the Defendant, Et Cetera, regularly conducted business, and sold and/or distributed its products, including the product involved in the instant action, in the Commonwealth of Pennsylvania, in general, and the County of Philadelphia, in general, and the County of Philadelphia, in general.

8. Upon information and belief, at all times material hereto, the Defendant, the Bassett Company, was engaged in the business of designing, marketing, manufacturing, fabricating, assembling, distributing, and/or selling Frosted Grip Eyelash Curlers.

9. Upon information and belief, at all times material hereto, the Defendant, Vibrations, was engaged in the business of designing, marketing, manufacturing, fabricating, assembling, distributing, and/or selling, Frosted Grip Eyelash Curlers.

10. Upon information and belief, at all times material hereto, the Defendant, Et Cetera, was engaged in the business of designing, marketing, manufacturing, fabricating, assembling, distributing, and/or selling, Frosted Grip Eyelash Curlers.

11. Upon information and belief, some time prior to October 10, 2004, the Frosted Grip Eyelash Curler in question had been manufactured, marketed, designed, fabricated,

assembled, sold, and/or distributed by Defendant, The Bassett Company, to Defendants' Vibrations and/or Et. Cetera. Prior to October 10, 2004, the Plaintiff, Patricia A. Miraglia, purchased a Frosted Grip Eyelash Curler in the City and County of Philadelphia, Commonwealth of Pennsylvania, from a local retail store.

12. Upon information and belief, at the time of the aforesaid purchase of the Frosted Grip Eyelash Curler in question by Plaintiff, Patricia A. Miraglia, from a local retailer in the City and County of Philadelphia, Commonwealth of Pennsylvania, said Frosted Grip Eyelash Curler was in the same condition as it was in and/or had not been substantially altered from its condition at its time of manufacture, fabrication, assembly, distribution, and/or sale by Defendants, the Bassett Company, Vibrations, and/or Et. Cetera.

13. Upon information and belief, at all times material hereto, the Defendants, Vibrations and Et. Cetera, were acting as the agents and/or servants of the Defendant, The Bassett Company, with respect to the design, marketing, fabrication, manufacture, assembly, distribution, and/or sale of the particular Frosted Grip Eyelash Curler in question.

14. On or about October 10, 2004, the Plaintiff, Patricia A. Miraglia, was utilizing the Frosted Grip Eyelash Curler when suddenly and without any warning, the grip of the eyelash curler dislodged, struck her right below the right eye, resulting in the serious and permanent injuries more particularly described below.

15. Upon information and belief, and after reasonable investigation, prior to October 10, 2004, the Frosted Grip Eyelash Curler's designed, manufactured, marketed, fabricated, assembled, distributed, and/or sold by the Defendants', The Bassett Company, Vibrations, and Et. Cetera, were recalled due to the fact that the handles to said eyelash curler's detached causing injury to the eyes and face.

16. At all times material hereto, the Plaintiff, Patricia A. Miraglia, was utilizing the Frosted Grip Eyelash Curler in question safely, properly, and in accordance with the instructions

provided in the packaging of said product.

17. The aforesaid accident, and resulting injuries to Plaintiff, Patricia A. Miraglia, was due to the negligence, carelessness, liability producing conduct, and/or defective condition of the Frosted Grip Eyelash Curler in question, breach of warranties, and any other liability producing conduct of the Defendants' herein, individually, jointly and/or severally, and was not due in any respect to any conduct on the part of the Plaintiff, Patricia A. Miraglia.

18. As a direct and proximate result of the aforesaid accident, the Plaintiff, Patricia A. Miraglia, suffered serious and permanent injuries, including, but not limited to: erythema of the right cheek; traumatic hematoma of the face under the right eye resulting in residual edema and hyper pigmentation at the injury site; need for laser surgery; permanent scarring; emotional injury; and cosmetic deformity and/or scarring, all to her great detriment and loss.

19. As a further direct and proximate result of the aforesaid accident, and resulting injuries, the Plaintiff, Patricia A. Miraglia, has been in the past, and will be in the future, obliged to seek medical treatment and care in and about an effort to cure herself of her injuries, and has, as a result, incurred substantial medical expenses, to her great detriment and loss.

20. As a further direct and proximate result of the aforesaid accident, and resulting injuries, the Plaintiff, Patricia A. Miraglia, has suffered pain, discomfort, frustration, embarrassment, cosmetic deformity, and/or scarring, loss of enjoyment of life's pleasures, and the inability to attend to her usual duties and occupations, all to her great detriment and loss.

COUNT I
PLAINTIFF, PATRICIA A. MIRAGLIA V. DEFENDANT, THE BASSETT COMPANY
NEGLIGENCE

21. Plaintiff, Patricia A. Miraglia, hereby incorporates by reference the allegations contained in paragraphs one through twenty as if same were more fully set forth at length herein.

22. Prior to the date of the accident herein, the Defendant, The Bassett Company, has designed, manufactured, assembled, fabricated, integrated, sold, supplied and/or caused to be

supplied and delivered the Frosted Grip Eyelash Curler, which was involved in the Plaintiff's accident.

23. At all times material hereto, the Defendant, The Bassett Company, was engaged in the business of designing, manufacturing, assembling, fabricating, integrating, distributing, selling, supplying, and/or causing to be supplied and delivering a certain Frosted Grip Eyelash Curler, which was involved in the Plaintiff's accident.

24. Defendant, The Bassett Company, was guilty of carelessness, recklessness, negligence, and other liability producing conduct, acting by and through its authorized agents, servants, distributors, and/or employees, which were a substantial factor in causing Plaintiff's injuries and damages, in the following respects:

a. Fabricating, designing, assembling, manufacturing, selling, supplying, installing, and/or distributing said Frosted Grip Eyelash Curler in a defective condition to Plaintiff, and all other users similarly situated;

b. Fabricating, designing, assembling, manufacturing, selling, supplying, installing, and/or distributing said Frosted Grip Eyelash Curler in a defective condition to Plaintiff in that the handles to said product detached, thus, causing injury to the eyes and face;

c. Fabricating, designing, assembling, manufacturing, installing, and/or distributing said Frosted Grip Eyelash Curler in a defective condition to Plaintiff without proper protective devices and safety features and/or supplying said Frosted Grip Eyelash Curler with safety features which were inadequate, impractical, and/or defective as set forth above;

d. Fabricating, designing, assembling, manufacturing, selling, supplying, causing to be supplied, installing and/or distributing said Frosted Grip Eyelash Curler in a defective condition to Plaintiff in such a manner that the Frosted Grip Eyelash Curler was susceptible to having its handle detached under normal and anticipated conditions and use;

e. Failing to design and/or manufacture said Frosted Grip Eyelash Curler in such

a manner so as to reasonably withstand normal use without causing the handles to detach and cause injury;

f. Failing to properly and adequately test said product, particularly testing the mechanisms and means for preventing the handles from detaching while in use;

g. Failing to design, fabricate, manufacture, sell, install, distribute, and/or assemble said product in a condition which was safe for its intended use;

h. Designing, fabricating, assembling, manufacturing, selling, supplying and/or distributing said product without adequate warnings, cautions, instructions and/or directions concerning the dangers and limitations of said product;

i. Selling and/or distributing a defective product which contained one or more defective components and/or inability to prevent the handles from detaching during normal and anticipated use;

j. Failing to ascertain before the sale and/or distribution of said product, that the product and/or a component of said product, i.e. the handles, was in a defective and dangerous condition;

k. Selling, distributing, and/or supplying said product, i.e. the Frosted Grip Eyelash Curler, with defective components, with knowledge of the intended use of said product; despite the fact that said product was defective;

l. Failing to exercise due care and caution under the circumstances;

m. Failing to warn of latent defects in the product, i.e. the detaching of the handles to the Frosted Grip Eyelash Curlers when used, thereby rendering it dangerous and unsafe for intended use; and

n. Such other acts or omissions constituting carelessness, recklessness, negligence and other liability producing conduct which may come to light during discovery or at Trial of this case.

WHEREFORE, Defendant, The Bassett Company, is liable to Plaintiff, Patricia A. Miraglia, under negligence theories, jointly and/or severally, in an amount in excess of \$50,000.00, together with costs, interest, to be determined at the time of Trial.

COUNT II
PLAINTIFF, PATRICIA A. MIRAGLIA V. DEFENDANT, THE BASSETT COMPANY
STRICT LIABILITY

25. Plaintiff, Patricia A. Miraglia, hereby incorporates by reference the allegations contained in paragraphs one through twenty four as if same were more fully set forth at length herein.

26. The aforesaid injuries and damages sustained by the Plaintiff, Patricia A. Miraglia, were caused by Defendant, The Bassett Company's sale, manufacture, supply, distribution, and/or delivery of said Frosted Grip Eyelash Curler in a defective and dangerous condition, lacking all necessary elements to insure its safe use.

27. Upon information and belief, prior to the aforesaid accident, there had been no substantial change in the condition of the Frosted Grip Eyelash Curler in question from its condition when it was assembled, manufactured, sold, distributed, and/or supplied by Defendant, The Bassett Company.

28. The Frosted Grip Eyelash Curler, which caused Plaintiff's serious injuries, was placed into the stream of commerce by Defendant, The Bassett Company, without the proper safety features, in an unsafe, defective and unreasonably dangerous condition for which Defendant, The Bassett Company, is strictly liable to Plaintiff pursuant to the Restatement (2d) of Torts, §402A.

WHEREFORE, Defendant, The Bassett Company, is liable to Plaintiff, Patricia A. Miraglia, herein under a strict liability theory, jointly and/or severally, in an amount in excess of \$50,000.00, together with costs, interest, to be determined at the time of Trial.

COUNT III
PLAINTIFF', PATRICIA A. MIRAGLIA V. DEFENDANTS', THE BASSETT
COMPANY, VIBRATIONS AND ET. CETERA
BREECH OF WARRANTY

29. Plaintiff, Patricia Miraglia, hereby incorporates by reference the allegations contained in paragraphs one through twenty eight as if same were more fully set forth at length herein.

30. Supplying, distributing, and/or marketing the aforementioned Frosted Grip Eyelash Curler, constituted a "sale of goods" within the meaning of the Uniform Commercial Code (UCC), §2-102, 13 Pa. C.S.A. §201, et. seq.

31. The sale of the aforementioned Frosted Grip Eyelash Curler, by operation of law, created implied warranties of fitness that the Frosted Grip Eyelash Curler was fit for the particular purpose for which it was intended, as well as for its ordinary purpose, and that the Frosted Grip Eyelash Curler was of fair and merchantable quality.

32. By reason of the defective design, failure to warn of the dangers, supply of information, brochures and advertisements, and failure to take the necessary safety precautions, the Frosted Grip Eyelash Curler involved in the Plaintiff's accident, was not fit for the ordinary, anticipated and particular purpose for which it was intended, nor was same of fair and merchantable quality.

33. Upon information and belief, the aforesaid injuries to the Plaintiff, Patricia A. Miraglia, were caused by misrepresentations of material fact concerning the quality and/or nature of said Frosted Grip Eyelash Curler, for which Defendants, The Bassett Company, Vibrations, and/or Et. Cetera, are liable to the Plaintiff.

34. Upon information and belief, in manufacturing, marketing, promoting, distributing, selling, supplying, assembling, fabricating, and/or delivering the aforesaid Frosted Grip Eyelash Curler, each Defendant expressly warranted that said product complied with and/or exceeded certain applicable standards, and may also have warranted other facts about such product, including implied warranties created by law, concerning the fitness and safety for said product during its ordinary

and particular purposes. Said warranties have been breeched in that said product did not conform to the representations made and/or implied by each Defendant.

WHEREFORE, Defendants', The Bassett Company, Vibrations, and/or Et. Cetera, individually, jointly and/or severally, are liable to the Plaintiff, Patricia A. Miraglia, under breech of warranty theories, in an amount in excess of \$50,000.00, together with interest, costs, to be determined at the time of Trial.

COUNT IV
PLAINTIFF', PATRICIA A. MIRAGLIA V. DEFENDANTS', VIBRATIONS
AND ET. CETERA
NEGLIGENCE

35. Plaintiff, Patricia A. Miraglia, hereby incorporates by reference the allegations contained in paragraphs one through thirty four as if same were more fully set forth at length herein.

36. The aforesaid accident and resulting injuries to Plaintiff, Patricia A. Miraglia, were caused by the negligence, carelessness, recklessness, and liability producing conduct of the Defendants', Vibrations and/or Et. Cetera, its agents, servants, ostensible agents, and employees, which consisted of, but is not limited to, the following:

- a. Failing to properly inspect said Frosted Grip Eyelash Curler before selling, distributing, marketing, providing, and/or selling it to the retailer from whom the Plaintiff, Patricia A. Miraglia, purchased said product;
- b. Failing to provide proper warnings and instructions accompanying said Frosted Grip Eyelash Curler;
- c. Failing to sell, market, and/or distribute a Frosted Grip Eyelash Curler, which contained properly working safety mechanisms to prevent the handles from detaching when said Frosted Grip Eyelash Curler was in use, and to prevent the handles of said product from detaching during ordinary and customary use;
- d. -Failing to provide all features necessary so that the safety mechanisms of said product would be operable;

e. Failing to provide proper and safe information concerning whether or not the Frosted Grip Eyelash Curler could be safely placed and utilized in the stream of commerce, prior to its sale to the retailer where the Plaintiff, Patricia A. Miraglia, purchased said product;

f. Failing to provide proper instructions and warnings to Plaintiff, in general, and consumers, in general, on whether the Frosted Grip Eyelash Curler could be safely placed in the stream of commerce;

g. Failing to provide proper instructions and warnings to Plaintiff, in general, and consumers, in general, concerning the propensity for the handles of the Frosted Grip Eyelash Curler to detach while being utilized properly and/or in a foreseeable manner;

h. Failing to provide proper instructions and warnings to Plaintiff, in particular, and consumers, in general, concerning the defect in and/or lack of proper safety mechanisms to prevent the handles of the Frosted Grip Eyelash Curler from detaching and causing injury; and

i. Vicarious liability for the negligence of its agents, servants, ostensible agents, contractors, and/or employees of the Defendants', Vibrations and/or Et. Cetera, and for the negligence, carelessness, recklessness, and liability producing conduct of its agents, servants, ostensible agents, employees, and/or independent contractors of Defendants', Vibrations and/or Et. Cetera, under its direction.

WHEREFORE, Defendants', Vibrations and Et. Cetera, are liable to Plaintiff, Patricia A. Miraglia, under negligence theories, individually, jointly and/or severally, in an amount in excess of \$50,000.00, together with costs, interests, to be determined at the time of Trial.

COUNT V.
PLAINTIFF, PATRICIA A. MIRAGLIA V. DEFENDANTS', VIBRATIONS
AND ET. CETERA
STRICT LIABILITY

37. Plaintiff, Patricia A. Miraglia, hereby incorporates by reference the allegations contained in paragraphs one through thirty six as if same were more fully set forth at length herein.

38. Upon information and belief, prior to the time of the accident in question,

Defendants', Vibrations and/or Et. Cetera, distributed, sold, marketed, and/or provided the Frosted Grip Eyelash Curler in question to the retail store, where the Plaintiff, Patricia A. Miraglia, purchased said product.

39. The aforesaid injuries and damages sustained by the Plaintiff, Patricia A. Miraglia, were caused by Defendants', Vibrations and/or Et. Cetera's sale, supply, marketing, and/or delivery of said Frosted Grip Eyelash Curler in a defective and dangerous condition, lacking all necessary elements to insure its safe use.

40. Upon information and belief, prior to the aforesaid accident, there had been no substantial change in the condition of the Frosted Grip Eyelash Curler from its condition when it was assembled, manufactured, sold, distributed, and/or supplied by Defendants' Vibrations and/or Et. Cetera.

41. The Frosted Grip Eyelash Curler, which caused Plaintiff's serious injuries, was placed into the stream of commerce by Defendants', Vibrations and/or Et. Cetera, without the proper safety features, in an unsafe, defective and unreasonably dangerous condition for which Defendants' Vibrations and/or Et. Cetera, are strictly liable to Plaintiff pursuant to the Restatement (2d) of Torts, §402A.

WHEREFORE, Defendants' Vibrations and/or Et. Cetera, are liable to the Plaintiff, Patricia A. Miraglia, under strict liability theories, individually, jointly and/or severally in an amount in excess of \$50,000.00, together with costs, interests, to be determined at the time of Trial.

COUNT VI
PLAINTIFF, ANTHONY MIRAGLIA V. DEFENDANTS',
THE BASSETT COMPANY, VIBRATIONS, AND ET. CETERA
LOSS OF CONSORTIUM

42. Plaintiff, Patricia A. Miraglia, hereby incorporates by reference the allegations contained in paragraphs one through forty one as if same were more fully set forth at length herein.

43. At all times relevant hereto, Anthony Miraglia has been and is the spouse of Plaintiff, Patricia A. Miraglia.

44. As a direct and proximate result of the conduct of Defendants, as described above and the resultant injuries and damages to Plaintiff, Patricia A. Miraglia, Plaintiff, Anthony Miraglia, has suffered and will suffer in the future, a loss of society, services, companionship, comfort, guidance, physical assistance, and the consortium of his spouse.

WHEREFORE, Defendants', The Bassett Company, Vibrations, and Et. Cetera, are liable to the Plaintiff, Anthony Miraglia, individually, jointly and/or severally, in an amount in excess of Fifty Thousand Dollars (\$50,000.00), together with costs, interest, to be determined at the time of Trial.

WHEREFORE, Defendants', The Bassett Company, Vibrations, and Et. Cetera, are liable to the Plaintiffs', Patricia A. Miraglia and Anthony Miraglia, h/w/ individually, jointly and/or severally, in an amount in excess of Fifty Thousand Dollars (\$50,000.00), together with costs, interest, to be determined at the time of Trial, upon each count of the aforesaid cause of action. The damages claimed herein exceed the amount requiring Arbitration referral.

Respectfully Submitted,

EDELSTEIN, BRASCETTA & STEINBERG, LLP

Date: 4-10-06

By: 

KEVIN B. STEINBERG, ESQUIRE

Attorney for Plaintiffs' Patricia A. Miraglia and
Anthony Miraglia, h/w

VERIFICATION

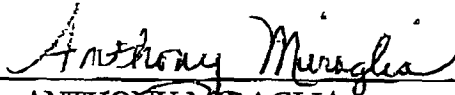
The undersigned, having read the attached pleading verifies that the within pleading is based on information furnished to counsel, which information has been gathered by counsel in the course of this lawsuit. The language of the pleading is that of counsel and not of signer. Signer verifies that he/she has read the within pleading and that it is true and correct to the best of the signer's knowledge, information and belief. To the extent that the contents of the pleadings are that of counsel, verifier has relied upon counsel in taking this verification. This verification is made subject to the penalties of 18 Pa. C.S. Section 4904 relating to unsworn falsification to authorities.


PATRICIA A. MIRAGLIADATE: 4-10-06

File No.: 125.024

VERIFICATION

The undersigned, having read the attached pleading verifies that the within pleading is based on information furnished to counsel, which information has been gathered by counsel in the course of this lawsuit. The language of the pleading is that of counsel and not of signer. Signer verifies that he/she has read the within pleading and that it is true and correct to the best of the signer's knowledge, information and belief. To the extent that the contents of the pleadings are that of counsel, verifier has relied upon counsel in taking this verification. This verification is made subject to the penalties of 18 Pa. C.S. Section 4904 relating to unsworn falsification to authorities.



ANTHONY MIRAGLIA

DATE: 4-10-06

File No.: 125.024

EXHIBIT “B”

WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER LLP

3 Gannett Drive, White Plains, NY 10604-3407

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Rosario M. Vignali

April 26, 2006

Edelstein, Brascetta & Steinberg, LLP
230 South Broad Street
Suite 900
Philadelphia, PA 19102

Attn: Kevin Steinberg, Esq.

Re: Miraglia v. W.E. Bassett Company, Inc., et al.
Our File No. : 08363.00001

Dear Mr. Steinberg:

Attached is the fully executed Certification of Service indicating that I have accepted service on behalf of W.E. Bassett Company on April 24, 2006.

Very truly yours,

WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER LLP


Rosario M. Vignali

RMV:slc
Enclosure

EXHIBIT “C”

05/22/2006 14:38 FAX 12156270635

WILSON, ELSER ET AL

002

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

PATRICIA A. MIRAGLIA AND
ANTHONY MIRAGLIA, H/W/
107 E. JEFFERSON AVENUE
WILDWOOD CREST, NJ 08260,
PLAINTIFFS

CIVIL ACTION
(On Removal from the Philadelphia,
Pennsylvania Court of Common

No.: 06-

v.

W.E. BASSETT COMPANY, INC.
100 TRAP FALLS ROAD EXTENSION
SHELTON CT, 06484,

AND

VIBRATIONS SALES AND PROMOTIONS
770 LEXINGTON AVENUE
NEW YORK, NY 10021,

AND

ET. CETERA MARKETING OF NY,
INC.
770 LEXINGTON AVENUE FRONT
NEW YORK, NY 10021,

DEFENDANTS

CONSENT TO REMOVAL OF ACTION

Defendants Vibrations Sales and Promotion and Et. Cetera Marking of NY hereby
advise this Court that they consent to the removal of the state court action described in the Notice
of Removal filed by W.E. Bassett Company, Inc.

The undersigned states that he has authority to give consent to the removal of this action
on behalf of defendants Vibrations Sales and Promotion and Et Cetera Marking of NY.

By: 